

**BOARD OF SELECTMEN
MEETING MINUTES
THURSDAY, JUNE 23, 2005
ABLONDI ROOM**

Attendance: Katherine E. Murphy, Chair; Charles J. Sisitsky, Clerk; A. Ginger Esty, Member; Dennis L. Giombetti, Member

Staff: George P. King, Jr., Town Manager; Mark J. Purple, Assistant Town Manager; Matthew A. Romero, Executive Assistant

The Chair called the meeting to order at 7:03 PM and reviewed the agenda.

Employee of the Quarter

Ms. Murphy read the official notice honoring Mr. Ronald Spurgeon from Building Services, and introduced Mr. Spurgeon and Ms. Monica Visco, Human Resources Director. She then recognized Mr. James Egan, Director of Building Services, who congratulated Mr. Spurgeon on his dedication to his work.

Public Participation

Jim Rizoli

Mr. Rizoli discussed an article in the MetroWest Daily News discussing him and his altercation with a Human Relations Commission member, noting that he had written letters and received no response. Ms. Esty felt that the Human Relations Commission, being appointed by the Board, was under their purview.

Consideration of a request to transfer a Class II Auto Dealers license from Middlesex Motors Wholesale Auto to Framingham Auto Center (865 Waverly Street)

Mr. Paul Galvani represented the owner, and gave the Board an overview of the previous business and the applicant. Mr. Sisitsky asked if the Class II license was still valid since the previous business was no longer operational. Mr. Galvani agreed that it could be a new license. Mr. Galvani clarified that the ZBA requirements had been met, and also clarified for Mr. Giombetti the arrangements for repairing cars, which was being done through an arrangement with an off-site location. Mr. Galvani agreed that the limitation on the number of vehicles would be upheld between the two sites.

MOVED: To grant the request to transfer the Class II Auto Dealers license.

Motion: Mr. Giombetti

Second: Mr. Sisitsky

VOTE: 4 – 0

Consideration of a request to transfer a Common Victualer License from Wal-Mart to Subway (121 Worcester Road)

Mr. Galvani represented the owner, Mr. Thaddeus P. King, gave the Board an overview of the applicant, and explained the new franchise arrangement being proposed. Mr. Thaddeus King clarified for Mr. Sisitsky that a breakfast menu would be available eventually, and that take-out would be available. Mr. Thaddeus King explained that the target date for opening would be near July 2005, and gave a brief background of his past business experience, which had been outside of the food service industry. Mr. Galvani pointed out that Subway had approved him as a franchisee. Mr. Giombetti asked if

Subway had training for food handling since the applicant did not have previous experience, and the applicant confirmed that it did.

MOVED: To grant the request to transfer the Common Victualer license.

Motion: Mr. Sisitsky

Second: Mr. Giombetti

VOTE: 4 – 0

Consideration of a change of Manager and Assistant Manager request for Bickford's (270 Cochituate Road)

Mr. Kenneth Allen, Vice President of Bickford's Family Restaurants, was present with Mr. David Havens being named as manager, and apologized that Ms. Jacqueline Murphy who was being named Assistant Manager was unable to be present. Mr. Havens had been acting as manager in the absence of a general manager, and had been on the license previously as Assistant Manager. Mr. Havens pointed out that the hours had changed from the previous license. Mr. Sisitsky noted the paperwork was in order.

MOVED: To grant the requested change of Manager and Assistant Manager for Bickford's.

Motion: Mr. Sisitsky

Second: Mr. Giombetti

VOTE: 4 – 0

Consideration of a Change of Officers/Directors, Change of Indirect Beneficial Interest, Change of d/b/a, and Change of Assistant Manager request for Bertucci's (150 Worcester Road)

Mr. Frank Bonanni represented Bertucci's, noting that the stockholders had changed, and a minor d/b/a change was being requested for this particular location. There was some confusion over whether or not the change of assistant manager was being done that evening. Mr. King said he could look into it, but that as a matter of policy the Board did not approve changes of assistant managers.

MOVED: To grant the requested Change of Officers/Directors, Change of Indirect Beneficial Interest, and Change of d/b/a.

Motion: Mr. Sisitsky

Second: Mr. Giombetti

VOTE: 4 – 0

Consideration of a requests for an Increase of Hours, New Entertainment License, New Coin-Op License, and Sunday Entertainment License for Pepperoncini's (486 Concord Street)

Mr. Vassilios Theodorakos, owner, gave a brief overview of the reasons for the application, noting that the previous owner had the same hours and licenses being requested that evening. Mr. King had spoken with Police Chief Carl that afternoon who had concurred with the Police Department's sign-off. Mr. Giombetti commented that local businesses like this should be encouraged.

MOVED: To grant the request to transfer the Common Victualer license.

Motion: Mr. Sisitsky

Second: Ms. Esty

VOTE: 4 – 0

Consideration of a request to transfer a Common Victualer License from Pachecho Holdings, Inc. to Subway (5 Edgell Road)

Mr. Prasad Chimmana, the applicant, was present to discuss the matter. Mr. Chimmana clarified that it would continue to be a Subway. Mr. Sisitsky noted the paperwork was in order.

MOVED: To grant the request to transfer the Common Victualer license.

Motion: Mr. Sisitsky

Second: Ms. Esty

VOTE: 4 – 0

Consideration of various borrowing authorization – Dennis O’Neil, Town Treasurer/Collector

Mr. Dennis O’Neil, Treasurer/Collector, explained the annual borrowing and anticipation of borrowing. He noted that Moody’s had upheld the Town’s bond rating, and that there had been eight bids. Advent had bid for part of the amount, and Sovereign had bid for the remainder. Mr. Giombetti asked how the amount had compared to previous years, and Mr. O’Neil explained the total amount of borrowing was less. Mr. King noted that while the rating had been consistent, he pointed out that the weakening of reserves could affect the bond rating in the future. Ms. Esty pointed out that the median income was declining, and Mr. King confirmed that it was affecting the bond rating.

MOVED: To move the language as submitted and following in the minutes.

Motion: Ms. Esty

Second: Mr. Sisitsky

VOTE: 4 – 0

“VOTED: That all action taken by the Town Treasurer in advertising for public sale of the \$3,577,000 aggregate principal amount of Bond Anticipation Notes (Municipal Purpose Loan of 2005) Nos. R-1 and R-2, dated June 30, 2005, payable June 30, 2006 (the “Notes”) of the Town, issued in anticipation of bonds authorized pursuant to Chapter 44, Sections 7,8 and 16 of the Massachusetts General Laws, as amended and supplemented, and by votes of the Town duly adopted, all as more particularly described in Exhibit A attached hereto which by reference thereto is hereby incorporated in and made a part of this Vote, be and hereby is ratified, confirmed, approved and adopted;

That the Notes shall be dated as of June 30, 2005; each shall mature on June 30, 2006, be in such form, of such denominations and contain such other details as the Town Treasurer and a majority of the Board of Selectmen shall determine or approve by their execution of the Notes;

That the Notes shall not be subject to redemption prior to their stated dates of maturity;

That the Notes shall originally be issued by means of a book-entry system evidencing ownership and transfer of the Notes; and in the event of failure

or termination of the book-entry system, U.S. Bank National Association, in Boston, Massachusetts, shall issue replacement notes in the form of fully registered certificates and shall act as Transfer Agent and Paying Agent therefore;

That the Notes shall bear interest payable at maturity and is hereby sold and awarded as follows:

BOND ANTICIPATION NOTES

<u>Purchasers</u>	<u>Note Nos.</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>Premium</u>
Advest, Inc.	R-1	\$2,000,000	3.00%	\$5,400.00
Sovereign Securities	R-2	\$1,577,000	3.875%	\$17,441.62

That the Town Treasurer be, and hereby is, authorized to execute and deliver a Material Events Disclosure Certificate generally as described in the official statement relating to the Notes and to incorporate by reference thereto in the Notes such Certificate both in such form as the signatories may approve by their execution thereof, and the obligation of the Town contained in such certificate is hereby approved and confirmed;

That the Board of Selectmen, the Treasurer and the Town Clerk be and hereby are, and each of them severally is, authorized to take such action, and to execute and deliver such certificates, receipts, or other documents as may be determined by them, or any of them, to be necessary or convenient to carry into effect the provisions of the foregoing Vote; and

That the Town Treasurer is hereby authorized to prepare and deliver the Notes to the aforesaid purchaser or order against payment in full of the agreed purchase price.”

Consideration of Budget Transfers for FY05

Mr. King explained that every year a few budget transfers were requested of the Finance Committee to balance the budget for the last month of the fiscal year. Mr. King and Mr. Richard G. Howarth, Jr., Acting CFO, requested transferring:

\$56,241 from Miscellaneous Unclassified (\$31,241 Salary Reserve and \$25,000 from Unemployment)

\$48,759 from Retirement (\$34,759 – Medicare/FICA and \$14,000 Non-Contributory Retirement)

\$70,000 to General Government – Town Owned Buildings

\$35,000 to Debt Service – Interest on Abatements

Mr. King clarified that interest on abatements was not eligible to come out of the overlay account.

MOVED: To approve the budget transfers as recommended by the Town Manager and Acting CFO.

Motion: Mr. Sisitsky

Second: Mr. Giombetti

VOTE: 4 – 0

Review of insurance coverage for Cochituate Rail Trail Property

Mr. Purple reviewed the previous discussion of the matter and the Board's request for more information. He explained the license agreements had different liability agreements, but that the insurance companies had suggested combining them on one policy at the higher limits required, which would cost the Town \$400 annually. He wanted the Board to be aware that MIIA also did not recommend signing an agreement with indemnification wording. He also pointed out that the insurance excluded developments within 50 feet of a railroad. Ms. Esty suggested raising the rail beds, which would help to alleviate some of the concerns mentioned. Mr. Sisitsky asked what kind of issues would not be covered by the insurance if the MBTA licenses were signed, and Mr. Purple explained that any environmental issues would be the Town's responsibility. Mr. King informed the Board that the lease was scheduled to be discussed and voted upon on July 12, 2005. Mr. Sisitsky suggested having the conversation with further information at that time. Mr. Sisitsky wanted to clarify what future liability the Town would be taking on that would not be covered by insurance purchased.

MetroWest Health Care Foundation (MWHCF) Update – Martin Cohen

Mr. Cohen, Director of the MWHCF thanked the Chair for the opportunity to give an update, and gave the Board the most recent newsletter, annual report, current strategic plan and a listing of all grants awarded by the Framingham Union Grants Panel. He gave the Board a brief overview of the MWHCF's recent activity, highlighting that grant-making had surpassed \$12M. He discussed three current initiatives – the new Youth Substance Abuse Program, MetroWest Meds Program, and a partnership of the Callahan Senior Center, Housing Authority and Jewish Family Services to provide a series of health and wellness services to the 75 elderly residents at Hastings House. Mr. Sisitsky asked if Mr. Cohen could provide the Board with the list of grants for the other towns. Mr. Sisitsky asked if the reappointments had been made yet, and Mr. Cohen explained that he had not yet received requests for reappointment. Ms. Esty asked about coordination with other senior centers for the third projects. Mr. Giombetti inquired about a list of programs that had been denied funding, and Mr. Cohen agreed to provide that to the Board at a later date. Mr. Cohen explained that funding was limited to not-for-profit organizations and government organization, and was not available for individuals or for profit organizations, with the exception of some scholarships. He clarified that the MWHCF was an official non-profit organization. He explained the rigorous process used to evaluate projects applying. Ms. Esty suggested having the Town focus on preparing for grant submissions, and Mr. King stated that the new planners being hired would probably be able to help ensure that the Town was more prepared in the future. Mr. Sisitsky discussed the by-law requirements that allowed the Trustees to reappoint themselves. Mr. Giombetti suggested writing a letter requesting that the by-law be changed, despite the need to go before the court. Ms. Esty brought up her previous suggestion of creating a Public Health Council. Mr. Sisitsky suggested adding two more

members to the trustees, one from Natick and one from Framingham, appointed by the Board of Selectmen from each town.

MOVED: To send a letter asking that the Board of Trustees review its by-laws and suggest adding two members, one appointed by the Natick Board and one appointed by the Framingham Board.

Motion: Mr. Giombetti

Second: Ms. Esty

VOTE: 4 – 0

Land Use Reform Act – MetroWest Growth Management

Ms. Donna Jacobs, MetroWest Growth Management Director, and Ms. Sue Bernstein, Planning Board (PB) member, made a power point presentation discussing the Massachusetts Land Use Reform Act (MLURA), which would amend the current state law with regard to zoning. Ms. Jacobs gave a background of the issue, and discussed her hopes for the passage of the proposed legislation, Senate Bill 168, and House Bill H3544. The legislation would aid municipalities by providing greater control over effective planning. A letter had been drafted expressing support of the legislation for the Board's signature, and the Board was invited to testify at the state. The MLURA would encourage communities to adopt or update master plans. The legislation would help with consistency between master plans and zoning by laws, reducing the "grandfathering" period from 8 years to 3 years, eliminate statutory exemptions for Approval Not Required (ANR) Plans, would allow municipalities to assess development impact fees while retaining the ability to require mitigation, adding review criteria for larger religious, educational, or child care projects (frontage, ingress/egress, drainage, landscaping and buffering, and traffic management) by amending the Dover Amendment, and provide for pre-application dispute avoidance processes or mediation.

Discussion also turned to the Wayside issue and the Building Inspector's discretion on interpreting Dover Amendment applications. Ms. Bernstein explained that the PB was not allowed to review the site plans for Dover Amendment properties, placing this authority instead in the hands of the Building Commissioner. Moreover, the current by-law did not allow for the PB to conduct a site plan review of Dover Amendment projects. Ms. Bernstein pointed out that changing the by-law was simple, but that there were limitations: namely, that the PB would not be able to deny a permit, merely impose reasonable conditions on it. Mr. King agreed with the discussion, and suggested calling a STM as soon as possible to amend the zoning by-law to allow for limited site plan review by the PB. Mr. Sisitsky agreed and suggested communicating with the PB immediately asking it to prepare a zoning by-law amendment to allow the PB to review the site plan for a Special Town Meeting. Discussion continued toward the specific timing for calling a Special Town Meeting.

Representative Deborah Blumer thanked Ms. Bernstein for her work on the bill, and expressed her support for the legislation. She felt that adding the support of municipal bodies like the Board would lend credence to the need for the legislation. She felt that the adoption of a master plan was essential to the success of the legislation at the local level. She thought that there would be sufficient legislative support, but also felt that getting gubernatorial support would be important as well.

Mr. Sisitsky asked Representative Blumer about the budget that had been approved, and wondered what the impact would be on the Town's allotment of Chapter 70 funding. She was unsure how much money would be given for the various aspects of Chapter 70, but discussed possibilities with the Board.

MOVED: To support the MLURA legislation, and to send a letter to the committee reviewing it, and to authorize the Chair to speak on behalf of the Board at the hearing.

Motion: Mr. Sisitsky

Second: Mr. Giombetti

VOTE: 4 – 0

The Board recessed at 9:37 PM and reconvened at 9:50 PM.

Town Manager's Report

Town Historian

Mr. King had received a letter from Mr. Steve Herring, Town Historian, informing him that he will be moving from Framingham upon retirement. Mr. King felt it was a large loss for the Town, as Mr. Herring had been extremely generous with his time and efforts to chronicle and promote this history of Framingham. His book, written in 2000, was the most comprehensive history of the Town written since the Temple's History publication in the mid-1800's. The Board agreed with the sentiment, and thanked Mr. Herring for all of his time and efforts.

Goals Update

When the Board agreed to move the Manager's evaluation until the fall, the Manager had been asked to give an update by this time. Mr. King explained that while he had planned to do it at this evening's meeting, due to the absence of one Selectman he would wait until July 12, 2005 to offer the update.

Budget

Mr. King informed the Board that the compromise state budget had removed some MWRA funds.

Building Code Enforcement

Mr. King explained that code enforcement encompassed many different areas – building codes, fire codes, common victualer licenses, and other areas. Mr. King gave examples of enforcement. He discussed the task force he had created previously that included representatives from Police, Fire, Health, Zoning, and occasionally DPW and Conservation. Mr. King felt that more direction was needed from a management level. Mr. King and a small group had walked through downtown the night before, and discussed the many violations found, in particular the MBTA station. Mr. King did not believe that the MBTA was exempt from the local by-law, and so could possibly be cited in the future. He pointed out that the liquor license regulations tended to be very clearly adhered to, and felt that that level needed to be achieved in all areas of code enforcement. Ms. Esty suggested and Mr. King agreed that some sort of a night shift might be necessary. Mr. Giombetti suggested also looking at it from a larger perspective by creating goals for downtown.

Ms. Esty asked when SMOC would be meeting with the Board, and Mr. King clarified that they had been invited to the July 12, 2005 meeting as part of the social services summit, and invited separately to discuss the 517 Winter Street issue. To date, no response had been received from SMOC. Ms. Esty said she had heard from some of the SMOC individuals that they might be uncomfortable coming due to potential CCFILE presence. Ms. Esty asked about the questions forwarded to Town Counsel with regard to veterans' benefits, and Mr. King said he would check, but he believed that Mr. Petrini had already responded.

Ms. Esty also expressed concern over the sewer permit being issued by DEP for the PUD and the numbers not being consistent. She also discussed concerns with the Town's pumping station being used for the PUD. Mr. King said he was unaware of the status of the pumping station. Mr. King said he would look into the DPW recommendations for the subdivision. Ms. Esty suggested reminding the PB of the Town's agreement with MWRA to avoid pumping stations.

Ms. Esty felt that the behavior of a commission the Board appointed was within its purview. Ms. Murphy opined that the Human Relations Commission's lack of response to a letter and the police report were two separate issues. Mr. Sisitsky suggested giving the HRC member in question a copy of the report.

Mr. Giombetti asked about the CFO Screening Committee, and Mr. King explained he would be appointing the committee because the CFO was ultimately his appointment, subject to the concurrence of the Board, and because committees appointed by the Town Manager were not subject to Open Meeting Law requirements and thus could meet during the day.

Mr. King told the Board that he had been unable to attend the hearings on the telecommunication tax loophole hearing earlier that week, but that the Town would continue to support the legislation.

Selectmen's Reports

Mr. Sisitsky

Mr. Sisitsky had nothing additional to report.

Ms. Esty

She had attended a course on transportation management. She gave a brief update on the MPO as well.

Mr. Giombetti

Mr. Giombetti had nothing additional to report.

Ms. Murphy

Ms. Murphy reminded the public of an Ethics Seminar would be held on Wednesday, June 29, 2005 in the Public Hearing Room.

MOVED: To adjourn at 10:40 PM.

Motion: Mr. Sisitsky

Second: Mr. Giombetti

VOTE: 4 – 0

Respectfully submitted,

Charles J. Sisitsky, Clerk